

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN WENDELL SMYTHE,

Petitioner,

vs.

CRAIG FARWELL, *et al.*,

Respondents.

3:04-cv-00462-LRH-RAM

ORDER

By order filed February 14, 2008, this Court denied petitioner's application for a certificate of appealability. (Order, at Docket #49). The Court directed the Clerk to send a copy of the order denying the application for a certificate of appealability to the Ninth Circuit Court of Appeals. (Docket #49, at p. 3). The motion for a certificate of appealability shall be construed as a Notice of Appeal and by this order, the Clerk will be directed to transmit the appeal to the Ninth Circuit Court of Appeals.

IT IS THEREFORE ORDERED that petitioner's Motion for a Certificate of Appealability (Docket #48) is **CONSTRUED AS A NOTICE OF APPEAL**.

IT IS FURTHER ORDERED that the Clerk **SHALL TRANSMIT THE APPEAL**, along with a copy of this order, to the United States Court of Appeals for the Ninth Circuit.

DATED this 26th day of February, 2008.

 LARRY R. HICKS
 UNITED STATES DISTRICT JUDGE